

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
MIDDLE DIVISION

FILED  
02 OCT -4 AM 11:16  
U.S. DISTRICT COURT  
N.D. OF ALABAMA

IMOGENE SUTTLE, et al.,

Plaintiffs,

v.

CITY OF GADSDEN,

Defendant.

CASE NO. CV 97-JEO-2034-M

ENTERED

OCT - 8 2002

MEMORANDUM OPINION

Before the court is the Defendant's Partial Objection to Magistrate Judge's Report and Recommendation. (Doc. 42).<sup>1</sup> In it, the defendant objects to one portion of Magistrate Judge John E. Ott's September 3, 2002, recommendation that the plaintiffs' motion for class certification (doc. 32) be granted in part and denied in part. (Doc. 42). After reviewing the defendant's objection, the court finds that it is due to be denied. The court further finds that the magistrate judge's report and recommendation is due to be approved and adopted.

DISCUSSION

The defendant argues that the report and recommendation contains error with respect to the numerosity requirement. Specifically, the defendant argues that the magistrate judge erroneously relied on *Corbitt v. Mangum*, 523 So. 2d 348 (Ala. 1988), which the defendant claims is not sufficiently analogous to this case to be applicable.

This objection is in the nature of a motion for reconsideration of a previous ruling of the

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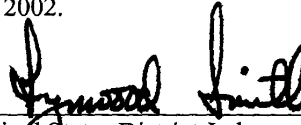
<sup>1</sup>References to "Doc. \_\_\_\_" are to the documents as numbered by the clerk of court in the court's record of the case.

court. The matter raised by the defendant was directly addressed by the district court when it ruled upon the plaintiffs' Objection and Request for Review of Magistrate's Ruling (doc. 24) in its Memorandum Opinion and Order dated July 17, 2002. (Doc. 25 at 2-5; Doc. 26). The court is not persuaded that there is a need to reconsider this matter.

### CONCLUSION

For the reasons set forth above, the court finds that the Defendant's Partial Objection to Magistrate Judge's Report and Recommendation (doc. 42) is due to be denied, and that the Report and Recommendation of the magistrate judge (doc. 41) is due to be approved and adopted.

DONE this 4<sup>th</sup> day of October, 2002.

  
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United States District Judge